

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MARK W. HAMMONS,
et al.,

Plaintiffs,

CIVIL ACTION NO. 06-CV-14509-DT

VS.

DISTRICT JUDGE GERALD E. ROSEN

ICON HEALTH AND
FITNESS,

Defendant.

MAGISTRATE JUDGE MONA K. MAJZOUB

_____/

**OPINION AND ORDER GRANTING IN PART DEFENDANT'S MOTION TO
STRIKE PLAINTIFF'S EXPERTS AND/OR TO COMPEL THEIR DEPOSITIONS**

Defendant has moved to compel the depositions of Plaintiff's expert witnesses. (Docket no. 21). Plaintiff has responded to the motion. (Docket no. 26). Defendant has filed a Reply brief. (Docket no. 27). The Court heard oral argument on the motion on August 13, 2007. The motion has been referred to the undersigned for decision. (Docket no. 22). The motion is now ready for ruling.

Defendant shows that on April 30, 2007 it noticed the depositions of Plaintiff's experts Morita and Adams for May 15 and 16, 2007, respectively. (Docket no. 21, exs. A, B). The parties agreed to adjourn these depositions. Thereafter, Defendant shows that its counsel tried unsuccessfully to arrange for these depositions to be taken. (*Id.* exs. C & D). However, the depositions have not yet been taken. Plaintiff's counsel at oral argument stated that he will be relying only upon his named expert Douglas Morita for future purposes in this action. Therefore, the Court will grant Defendant's Motion to Compel to the extent that Plaintiff's counsel will confirm available dates for Mr. Morita's deposition and give those dates to Defendant's counsel on or before

August 20, 2007. Defendant's counsel will then notice Mr. Morita's deposition for a date on or before September 20, 2007.

IT IS THEREFORE ORDERED that Defendant's Motion to Compel (docket no. 21) is **GRANTED IN PART** in that the deposition of Plaintiff's expert Morita will be noticed as set out above.

NOTICE TO THE PARTIES

Pursuant to Fed. R. Civ. P. 72(a), the parties have a period of ten days from the date of this Order within which to file any written appeal to the District Judge as may be permissible under 28 U.S.C. 636(b)(1).

Dated: August 14, 2007

s/ Mona K. Majzoub

MONA K. MAJZOUB
UNITED STATES MAGISTRATE JUDGE

PROOF OF SERVICE

I hereby certify that a copy of this Opinion and Order was served upon Counsel of Record on this date.

Dated: August 14, 2007

s/ Lisa C. Bartlett

Courtroom Deputy